

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**WELLS FARGO EQUIPMENT
FINANCE, INC.,**

Plaintiff,

CIVIL ACTION NO. 09-CV-10075-DT

VS.

DISTRICT JUDGE STEPHEN J. MURPHY III

**SITE SUPPORT, LLC,
ALTHEA M. WILLIAMS,
Defendants.**

MAGISTRATE JUDGE MONA K. MAJZOUB

OPINION AND ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL

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This matter comes before the Court on Plaintiff's Motion to Compel Discovery and/or to Strike Answer or Affirmative Defenses of Defendant Althea M. Williams filed on July 1, 2009. (Docket no. 26). Defendant Williams is proceeding *pro se*, has not responded, and the time for responding has now expired. This motion has been referred to the undersigned for decision. (Docket no. 27). The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(e). This matter is now ready for ruling.

Plaintiff shows that it served a Notice of Taking Deposition upon Defendant Williams on June 4, 2009. (Docket no. 26-3). Defendant's deposition was to be taken on June 22, 2009. (*Id.*). By failing to respond to this motion, Defendant has not disputed Plaintiff's showing that Defendant Williams failed to appear for her deposition on June 22, 2009. (Docket no. 26 at 3). Plaintiff's counsel states in her affidavit that she talked with Defendant Williams by phone on July 23, 2009 and attempted to have Defendant agree to be deposed on July 24, 2009, but Defendant asked if she could call counsel back, hung up the phone, and never called counsel back. (Docket no. 31).

Counsel had also written Defendant Williams a letter on July 13, 2009 encouraging Defendant to contact counsel and schedule her deposition before July 24, 2009. (Docket no. 31 at 4). Plaintiff's counsel also states in her affidavit that during the July 13, 2009 phone conversation Defendant Williams revealed that she was aware of counsel's July 13 letter as well as this Court's scheduling order for Plaintiff's Motion to Compel. (*Id.* at 2).

Plaintiff is entitled under Fed. R. Civ. P. 30(a)(1) to depose Defendant Williams. The evidence before the Court shows that Defendant Williams has thus far refused to be deposed without good reason. Rule 37(a), Fed. R. Civ. P., allows the Court to compel Defendant Williams to appear for her deposition. Defendant Williams will be ordered to contact Plaintiff's counsel on or before August 21, 2009, and schedule her deposition which is to be completed on or before September 4, 2009. Defendant Williams must also attend her deposition.

Failure to comply with this Order may result in sanctions including dismissal of this action.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Compel Discovery (docket no. 26) is **GRANTED**, and that Defendant Williams is ordered to contact Plaintiff's counsel on or before August 21, 2009, and schedule her deposition by that date which is to be completed on or before September 4, 2009.

IT IS FURTHER ORDERED that Defendant Williams attend her deposition.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: 8/17/09

s/Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE